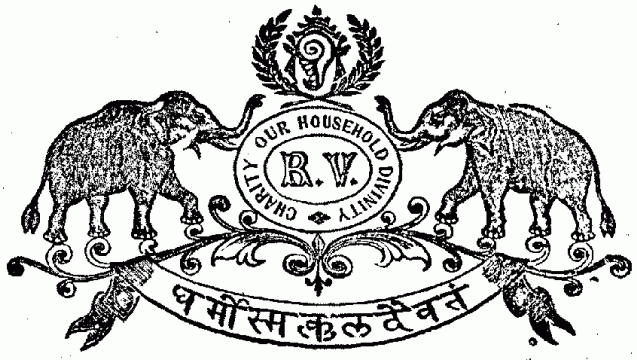
TRAVANCORE
GOVERNMENT GAZETTE
SUPPLEMENT.

Tuesday,
18th April, 1905.



Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 1 P. M. on Saturday the 15th April 1905. / 3rd Medom 1080.

PRESENT.

V. P. Madhava Rao Esquire, C. I. E., DEWAN ... ...*Presiding.*
V. Nagam Aiya Esq., B. A., F. R. H. S.
A. Govinda Pillai Esq., B. A & B. L.
T. Rajaram Row Esq., B. A.
V. I. Kesava Pillai Esq., M. A.
A. J. Vieyra Esq., B. A.
R. Mahadeva Iyer Esq., B. A.
K. P. Padmanabha Menon Esq., B. A. & B. L., M. R. A. S.

R. Viraraghava Aiyangar Esq., B. A. & B. L. ...*Secretary.*

CIVIL COURTS REGULATION AMENDMENT BILL.

Mr. Vieyra.—Sir, I beg leave to introduce a Bill to amend the Civil Courts Regulation I of 1057 (as amended by Regulation I of 1077). This measure is necessary to afford relief to the overworked Munsiffs and Judges and promote the speedy administration of justice. I would observe that the modifications contemplated involve no departure from the principles underlying the measures hitherto adopted for the improvement of the judicial machinery; but are inevitable, to keep pace with the material progress of the country and the consequent increase in litigation.

The reform of the Judicial Administration has been a tentative process since 1057, and the proposed amendments constitute a further step in the direction of progress. Regulation I of 1057 raised the pecuniary jurisdiction of Munsiffs from 200 to 500 Rs. and vested them with small cause jurisdiction in suits for personal property of the value of 20 Rs. and under. The decisions of Zillah Judges passed in appeals in suits for money or other personal property not exceeding 50 Rs. were also declared final. The effect of those changes was, as pointed out in the Administration Report for 1058, to throw more original work into the Munsiffs' Courts and *pro tanto* to promote the speedy administration of justice, and to relieve the Zillah Courts of those heavy arrears which had greatly encumbered their files to the great annoyance and vexation of suitors. This reform was justified by the result

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in the way of substantial relief and encouraged Government to hope, 2 years after, that the time had arrived "for introducing a further instalment of reform in the same direction. It is in contemplation to enhance the Munsiffs' jurisdiction to 1,000 Rs. and to invest—not every Munsiff as a matter of course—but such of them as the Government might see fit with small cause powers in personal suits of 50 Rs. and under." It was considered that "such a measure would have the effect of still further relieving the Zillah Courts of work which the Munsiffs are competent to undertake and bringing justice nearer to the homes of a large class of suitors". But nothing was attempted till 1066, when, under Regulation III of that year, the small cause jurisdiction of the Munsiffs was raised from 20 to 30 Rs. and the final appellate jurisdiction of the Zillah Judges from 50 to 60 Rs. This relief, small as it was, enabled the courts concerned to devote greater time and attention to the more important suits coming up before them.

The relief, however, was found to be insufficient, and in 1077 under Regulation I of that year, Government took power to raise the small cause jurisdiction of Munsiffs to 50 Rs. in special cases, and their ordinary jurisdiction was extended from 500 to 1,000 Rs. Even this last relief is now found to be inadequate. Original litigation in the State, which ranged between 25,000 and 30,000 suits till 1070 M. E. rose after 1071 and reached 43,000 in 1073. This was attributed to the Jenmi and Kudyan Regulation (V of 1071), which became law in 1072. In subsequent years the institutions began to decrease and came down to 35,000 in 1078, but rose again to 40,000 in 1079. The High Court, in para 6 of their Report on the Administration of Civil Justice for 1079, attribute this increase to the "extension of trade and credit transactions and to a growing demand for land". These are causes which may be expected to continue to operate in subsequent years also. The extension of the Railway into Travancore and the progress of settlement operations under the new system may be taken to be special factors tending to a continued increase in litigation.

The total file of the Munsiffs Courts in 1079 consisted of 40,063 suits of which 20,067 were ordinary and 1,998 were small causes. Of the ordinary suits, 9,027 related to real and 11,040 to personal property. Leaving aside the two *ex-officio* Munsiffs (Shencottah and Devikulam) whose files are light, the above file divided among the remaining 20 Munsiffs (18 Regular and 2 Itinerant) gives to each Munsiff an average file of about 1000 oridinary suits and 1,000 small causes or a total of 2000 suits, of which 450 relate to real property.

In Madras the average work of a District Munsiff in 1903, taking the Presidency as a whole, was about 630 ordinary suits and 980 small causes. In the Districts of North and South Malabar in which the conditions are nearly the same as in Travancore, the average work of a District Munsiff was about 700 ordinary suits and 1,100 small causes in the former and 400 ordinary suits and 500 small causes in the latter, or an average of 550 original suits and 800 small causes. In the Native States of Cochin and Mysore, the average outturn of work by a Munsiff appears to be much less.

In their remarks on the working of the Judicial Department for 1079, the High Court observe as follows:—"The disposals by the Munsiffs aggregated 40,545 suits or 4978 more than in 1078. The disposal by a full-time Munsiff averaged 995 ordinary suits and 996 small causes, of which 356 and 154 respectively were contested. This compares very favourably with the work done by their compeers in the Madras Presidency and Cochin. As the Munsiffs are overworked and as arrears in their courts are increasing on account of increase in litigation, some measures have to be devised for giving them relief".

18 Munsiffs Courts were instituted in 1057 on the passing of the Civil Courts Regulation. 4 Courts have since been added to their number—2 Regular and 2 Itinerant—besides Itinerant Munsiffs' Courts instituted and abolished in the interval. Referring to the creation of Itinerant Munsiffs Courts for bringing down arrears, the High Court in a memorandum forwarded with their letter No. 626 dated 25th October 1901 observed that the "system, though advantageous in one way, has been found by experience to have the evil of dividing the responsibility of Munsiffs and of slackening the efforts of some of the Munsiffs in charge of comparatively heavy courts to keep abreast of their files in expectation of relief."

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It is undesirable to go on increasing Munsiffs Courts with every increase in litigation. The remedy would appear to be in the direction of lightening the work of the Munsiffs. Besides the High Court, we have only two grades of Civil tribunals in the State, namely the District Courts and the Munsiff Courts, while in British India and in most of the Native States, there is an intermediate grade of court called the Subordinate Judge's Court. Though we have 2 Second Judges whose position may be taken to correspond to that of the Subordinate Judges elsewhere, they have no independent files and have only to dispose of cases transferred to them by the District Judges, the powers of the two classes of Judges in civil matters being co-ordinate. None of the District Judges and Second Judges possess original small cause jurisdiction, except in regard to a few cases falling under the Jenmi and Kudyan Regulation, not exceeding Rs. 100 in value. Section 11 of the Civil Courts Regulation, as amended by section 5 of Regulation I of 1077, makes, however, their decisions in appeals from suits of a small cause nature not exceeding Rs. 100 in value non-appealable. The ordinary Jurisdiction of the Munsiffs extends up to Rs. 1000 and the small cause jurisdiction up to Rs. 30 generally and to Rs. 50 in special cases, while the Munsiffs in the Madras Presidency have ordinary jurisdiction up to Rs. 2,500 and small cause jurisdiction up to Rs. 50 generally and Rs. 200 in special cases.

On a consideration of the above facts, it will be admitted that, as the best possible solution of the existing difficulties in the administration of Civil Justice, further modifications and improvements are necessary. To state broadly, the Bill, I ask leave to introduce, proposes to raise the small cause and ordinary jurisdiction of the Munsiffs and to create Subordinate Judge's Courts with ordinary and small cause jurisdication and with power to hear appeals from the decisions of Munsiffs in certain cases. It is also proposed to invest District Judges with small cause jurisdiction up to certain limits when necessary. As already stated, Government have power under Regulation I of 1077 to raise the small cause jurisdiction of Munsiffs up to 50 Rs. in special cases, and several Munsiffs have already been invested with this enhanced jurisdiction. It will be admitted that the *personnel* of this grade of judicial officers fully justifies the extension of the enhancement of powers to every member of the grade. In the Madras Presidency all the Munsiffs have ordinary jurisdiction up to Rs. 2,500. In Mysore, though the ordinary jurisdiction is fixed at Rs. 1,000, Government have taken power to enhance it to Rs. 2,500. In order to adjust differences in the work of the several grades of courts, it is proposed to adopt an intermediate course here.

The above measures, however, would not afford the Munsiffs relief to the extent that it is desirable to give them. The creation of Subordinate Courts with original small cause jurisdiction and the investiture of District Judges with similar powers, when necessary, are desirable.

These measures are intended to reduce the cost of litigation and secure speedy dispensation of justice. Occasion will also be taken to remove some existing anomalies and bring the judicial system in line with those obtaining elsewhere.

Permission was granted accordingly.

HIGH COURT REGULATION AMENDMENT BILL.

Mr. Vieyra.—Sir, As permission has been granted by the Council to introduce a Bill to amend the Civil Courts Regulation, I beg leave to introduce another Bill to amend the High Court Regulation I of 1067. The amendments I would propose are the result of the modifications contemplated in the Bill for the amendment of the Civil Courts Regulation I of 1057. They affect the constitution of the High Court. With the enhancement of the powers of Civil Courts and the creation of Subordinate Judges, the work of the High Court will be considerably lightened. The number of first and second appeals filed in the High Court in 107 aggregated 371 and 330 respectively. If appeals from the decisions of Munsiffs in suits of between Rs. 500 and 1,000 in value, which are now filed in the High Court, be made to lie to the District Courts the file of first appeals will come down to 230. Of the second appeals instituted in the High Court the value in 171 appeals did not exceed Rs. 200.

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